THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.5114 of 2001

Dated:13.02.2007

Between
R.Ranganadha Rao

.....Petitioner

and

1.The Vice Chairman & Managing
Director, Girijan Coop. Corporation
Limited, Visakhapatnam
and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.5114 of 2001

ORDER:

This writ petition is filed seeking a Certiorari to quash the proceedings in Rc.No.664/2000 Admn.7, dated 26.1.2001 issued by the 1st respondent as arbitrary and illegal.

It appears that the petitioner is an employee of the respondent-Girijan Co-operative Corporation limited and he was suspended pending enquiry into the matter, on certain allegations. Later, the 1st respondent passed the impugned proceedings on 25-01-2001 stating that the charges levelled against the petitioner were proved and directed the petitioner to explain as to why he shall not be

dismissed from service. Aggrieved by the same, the present writ petition is filed by the petitioner stating that the enquiry proceedings are vitiated and the enquiry report was one sided as he could not attend the enquiry due to his ill-health and the disciplinary authority ought not to have relied upon by such an enquiry. It is further stated that he was not being paid subsistence allowance. Ultimately, it is pleaded that the impugned order passed by the disciplinary authority is arbitrary and illegal.

A detailed counter-affidavit has been filed by the respondents denying the allegations made by the petitioner stating that even before issuing the notice of dismissal from service, the petitioner was paid two instalments of subsistence allowance and the third instalment was paid thereafter. Therefore, no prejudice would be caused to the petitioner and on that ground the impugned order cannot be set aside.

Learned counsel for the petitioner asserted that the instalments were paid before issuance of the impugned proceedings but not during pendency of the enquiry before the Enquiry Officer. Therefore non-payment of subsistence allowance during pendency of the enquiry vitiates the entire proceedings.

Whereas learned counsel for the respondents contended that in the first instance, the petitioner was not paid the subsistence allowance for non-production of necessary certificate, and subsequently, all the arrears were paid to him. He further contends that in spite of giving several notices to the petitioner affording ample time and opportunity, he did not avail the same, therefore, they had no other way except to conduct an

ex parte enquiry and pass the impugned order.

Be that as it may, since the impugned

proceedings were issued by the 1st respondent calling for an explanation from the petitioner, and since the petitioner did not submit any explanation and approached this Court by filing the present writ petition, the petitioner herein is permitted to submit his explanation within two weeks from today, to the impugned proceedings, taking all the grounds raised in this writ petition. On filing such an explanation, the respondents shall consider the same and pass appropriate orders as per law. The respondents may also consider the re-opening of the case of the petitioner by giving opportunity to him in this regard.

With the above direction, writ petition is disposed of. No costs.

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13-02-2007

Note: Issue CC by one week.
(B.O) rkk